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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/594,942

09/28/2006

Paul Omdoll

1414.093

5667

23598 7590 10/30/2008
BOYLE FREDRICKSON S.C.
840 North Plankinton Avenue
MILWAUKEE, WI 53203

EXAMINER

RAHIM, AZIM

ART UNIT

PAPER NUMBER

3744

NOTIFICATION DATE

DELIVERY MODE

10/30/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing@boylefred.com

Office Action Summary	Application No. 10/594,942	Applicant(s) OMDOLL ET AL.	
	Examiner AZIM RAHIM	Art Unit 3744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 September 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 4,5,7,11,12 and 15-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,6,8-10,13 and 14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 3744

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Invention I directed to claims 1-15 and the further election of Species Q and Sub-species AI directed to claims 1-3, 6, 8-10, 13 and 14 in the reply filed on 9/16/2008 is acknowledged. The traversal is on the ground(s) that the additional examination of claims 16 and 17 would not place undue burden on the Examiner. This is not found persuasive because Invention I does not include the function of chilling the body as claimed in Invention II, which would place undue burden on the Examiner.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 4, 5, 7, 11, 12 and 15-17 withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected Invention II, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 9/16/2008.

Claim Objections

3. Claims 1-3 and 6 are objected to because of the following informalities: In claim 1, line4, the recitation "the top" should be changed to recite --a top-- in order to establish proper antecedent basis in the claims. Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-3, 6, 8-10, 13 and 14 rejected under 35 U.S.C. 102(b) as being anticipated by Bell et al. (US D227,345).

Regarding claims 1 and 8, Bell et al. teach a device [figures 1-3 and see marked up drawings below] for chilling warm material comprising: a body (annotated below) shaped to provide an enlarged surface area [illustrated below], wherein the body is at least partially hollow [see title]; a mouth (annotated below) situated on said body providing access to the hollow interior of said body [illustrated below], wherein said mouth is located below a top [illustrated below] of said body such that when the hollow interior of said body is filled with liquid, at least a portion of the hollow interior remains unfilled with the liquids [illustrated below; see fill line]; a cover (annotated below) for said mouth comprising a hollow area extending above said body [annotated below] to provide for expansion of liquid into the hollow area of the mouth when said body is filled with liquid and then frozen or otherwise exposed to an environment that causes the liquid with which said body is filled to expand [this device is capable of performing this intended use function].

Regarding claims 2 and 9, Bell et al. teach that the device cannot be overfilled [illustrated below;

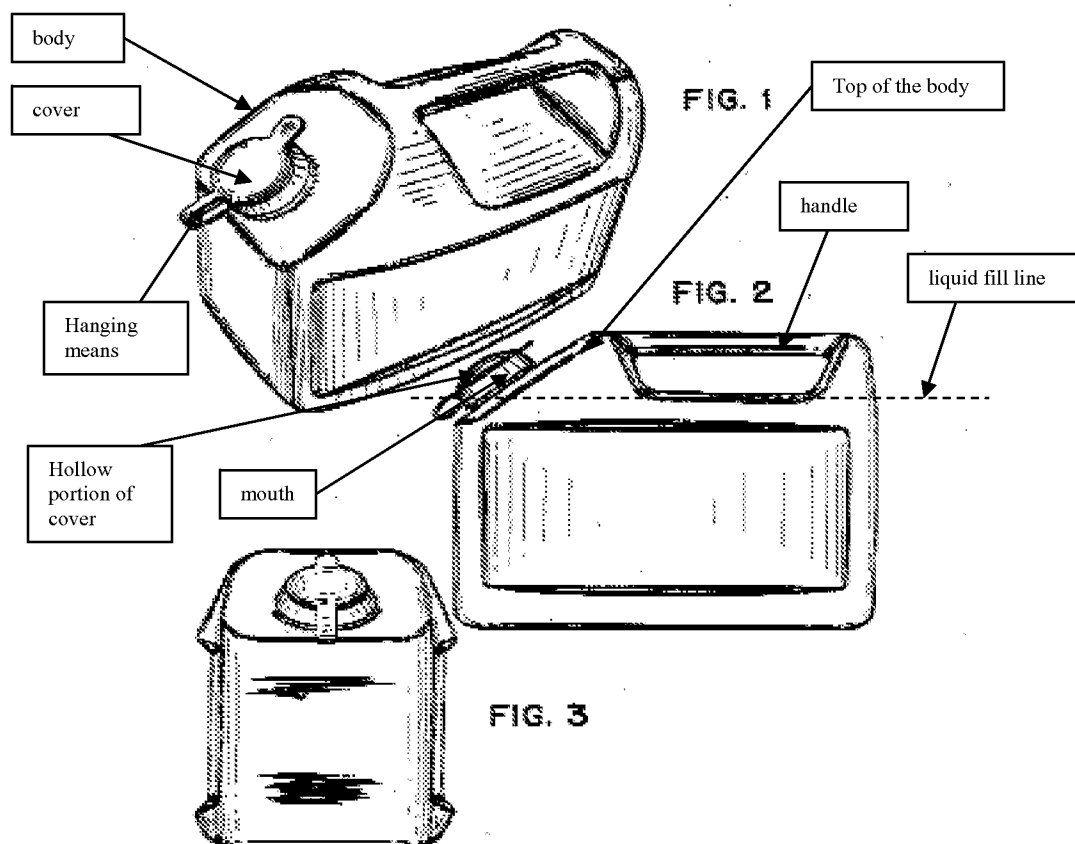
Art Unit: 3744

see fill line].

Regarding claims 3 and 10, Bell et al. teach that the mouth is sized to accommodate ice cubes [as illustrated below, the mouth is capable of accommodating ice cubes smaller than the mouth].

Regarding claims 6 and 13, Bell et al. teach a means for hanging said device (annotated below).

Regarding claim 14, Bell et al. teach that the means for hanging said device is part of said cover [illustrated below].



Art Unit: 3744

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to AZIM RAHIM whose telephone number is (571) 270-1998. The examiner can normally be reached on Monday - Thursday 7am - 3pm EST and Friday 7am - 9:30am EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frantz Jules can be reached on 571-272-6681. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. R./
Examiner, Art Unit 3744
10/11/2008

/Frantz F. Jules/
Supervisory Patent Examiner, Art Unit 3744